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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,715	04/16/2004	Steven Hamilton Gattis	3011.001	8828

7590

09/29/2005

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EXAMINER

LEWIN, ALLANA

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/825,715

Applicant(s)

GATTIS ET AL.

Examiner

Allana Lewin

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-14, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 11 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/16/2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Trocchio (US Pat. No. 5,472,395).
3. Trocchio discloses a training apparatus comprising a training pad connected to a training pad arm (note Figure 1 and see proximate lead lines 24, 25, 28 and 30), and a pivot assembly connected to the training pad arm comprising an elongated elastic member (see proximate lead line 26) that provides a resistive force in a plane approximately orthogonal to the length of the training pad arm, and a U-shaped pivotal connection member with pin configurations (see proximate lead line 22) that is connected to the training pad arm.

Trocchio further discloses an enclosure with an interior and an exterior (see proximate lead lines 12 and 16), with the pivot assembly secured within the interior of the enclosure (note Figure 2), and with the interior of the enclosure comprising a mounting member for receiving an end of the elastic member and fixedly securing the elastic member, as seen in Figure 2. Furthermore, the enclosure includes an elongated

slot (see proximate lead line 17) through which the training pad arm extends, as well as a wall mount for securing the apparatus to a surface (column 2, lines 42-44).

Regarding claims 12-14, the Trocchio training apparatus is capable of performing the disclosed method, wherein a striking pad connected to a pad arm is provided (note Figure 3, proximate lead lines 24, 25, 28 and 30), the end of the pad arm that is opposite the striking pad pivots about a pivotal connection member in response to a strike (column 2, lines 61-66), the pivotal connection and elastic members are enclosed in an enclosure (note Figures 1 and 2), and mounting the enclosure to a secure surface (column 2, lines 42-44).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 8, 9, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rennick (US Pat. No. 5,788,612) in view of Nelson (US Pat. No. 5,662,564).

6. Rennick substantially discloses the claimed invention, in the embodiment of Figure 4, which is a punching bag/training apparatus comprising a training pad (see proximate lead line 1), a training pad arm connected to the training pad (see proximate lead line 2), and a pivot assembly connected to the training pad arm that comprises an

elongated elastic member (see proximate lead line 25) and a pivotal connection member pivotally connected to the training pad arm (see proximate lead line 10). Rennick further discloses the elastic member to be an approximate V-shape and defines a plane that is orthogonal to the length of the training pad arm (note Figure 4).

Rennick fails to disclose the elastic member extending around the training pad arm at an approximate midpoint of the elastic member.

Nelson teaches an exercise device employing an elastic member extending around an arm/guide pin as part of a user engaged member (note Figure 4, proximate lead lines 410, 412 and 500).

Based on the teaching of Nelson, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized an elastic member extending around the user engaged arm member in the Rennick device so as to allow for greater multi-directional movement of the apparatus, thereby increasing the level of exercise and training achieved by a user.

Regarding claims 16 and 17, the claim limitations of the method disclosed is capable of being performed by Rennick modified supra.

### ***Allowable Subject Matter***

7. Claims 11 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571.272.5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571.272.4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL  
9/27/2005

  
STEPHEN R. CROW  
PRIMARY EXAMINER  
ART UNIT 332